

ORIGINAL

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

Sullivan Township, Moultrie County, )  
Illinois, )

Petitioner, )

vs. )

T03-0048

Union Pacific Railroad Company and )  
the State of Illinois Department of )  
Transportation, )

Respondents. )

Petition seeking an order from the Illinois  
Commerce Commission authorizing  
permanent closure and removal of the  
TR 104 grade crossing (DOT #167 270M)  
and authorizing the signalization of the  
TR 117A grade crossing (DOT #167 269T)  
located in Sullivan Township, Moultrie  
County, Illinois on the trackage of Union  
Pacific Railway Company, together with  
construction of a connecting road, and  
allocating a portion of the cost to the  
Grade Crossing Protection Fund.

TRANSPORTATION DIV

2003 OCT -9 P 4:24

ILLINOIS COMMERCE  
COMMISSION

APPLICATION FOR REHEARING

NOW COMES Union Pacific Railroad Company, one of the Respondents herein,  
by and through its Attorney, Dean W. Jackson, Esq., and pursuant to 83 Illinois  
Administrative Code, Chapter I, Section 200.880, hereby submits its Application for  
Rehearing, and in support thereof states as follows:

ISSUE No. 1. This Honorable Illinois Commerce Commission (hereinafter  
"Commission") should have issued a Proposed Order prior to entering a Final  
Order in this case.

DOCKETED  
OCT 10 2003

1. The Hearing on the Petition of Sullivan Township, Moultrie County, was held in the Commission before an Administrative Law Judge on July 17, 2003. By letter dated September 9, 2003, this Commission sent its Final Order (dated September 4, 2003) to all parties of record in this matter. At no time between July 15, 2003 and September 9, 2003 did a Proposed Order issue.

2. Section 200.820 of the Illinois Administrative Code provides, in relevant part, as follows:

The Hearing examiner [Administrative Law Judge] shall issue a proposed order in any "Contested Case" or "Licensing Proceeding" if the proposed order is adverse to any party in the proceeding.

...

The proposed order shall be served on all parties and Staff witnesses by the Chief Clerk of the Commission.

83 Ill. Admin. Code Section 200.820 (b)(1) and (b)(3).

3. "Contested Case" is defined as follows:

*"Contested Case" means any proceeding, not including rate making, rulemaking, quasi-legislative, informational or similar proceedings, where individual legal rights, duties or privileges of a party are required by law to be determined by the Commission by the Commission after an opportunity for a hearing. 83 Ill. Admin Code Section 200.40.*

"Contested Case" means an adjudicatory proceeding (not including ratemaking, rulemaking, or quasi-legislative, informational, or similar proceedings) in which the individual legal rights, duties, or privileges of a party are required by law to be determined by an agency only after an opportunity for a hearing. 5 ILCS 100/1-30.

4. The instant case clearly was a "Contested Case" requiring that a Proposed Order issue before a Final Order in order to give this Respondent an opportunity to file Exceptions to the Proposed Order as allowed under 83 Illinois Administrative Code Section 200.830. The Order as issued is adverse to this Respondent as it apportions \$275,325 of the Project cost of \$713,427 to this Respondent Union Pacific Railroad

Company (hereinafter "Respondent" or "Railroad"). (Order at page 4.) This is an unprecedented 38% (thirty-eight percent) of the Project cost as a whole in a project which is intended to primarily benefit the safety and convenience of the public and not this Respondent. (See argument under Issue No. 2 below.) A large amount of this cost apportioned to this Railroad is for building a connecting road, which is located away from the actual Railroad crossings at issue in the case. (See Transcript at pages 18, 22, 32, 38-40.) It was recognized at the July 17, 2003 hearing that such a high cost for constructing a connecting road of such short length was highly unusual itself and, at the least was approximately four times greater than normal. (Transcript at page 35-36.)

5. Moreover, it was recognized at the Hearing that this clearly should be considered (and was) a "contested case" requiring the issuance of a Proposed Order. Staff recommended that \$250,000 of the total project cost of \$713,427 be apportioned to the Grade Crossing Protection Fund with the remainder to be apportioned to the Railroad.

The Honorable Chief Administrative Law Judge Korte responded:

"I think the railroad obviously is going to raise all kind of heck about that. Why don't we do this, Mr. Berry? Why don't we make this suggestion to you? ... What I would suggest that you do is why don't we put together a proposed order, okay. ... If we are going to try to shove costs onto them, they are obviously - - then that will be in a sense a contested matter, as far as I'm concerned. So let's do a proposed order and let's put it together." (Transcript at pages 63-64.)

[Discussion re percentages to be assessed parties.]

"But any rate, why don't we do this, put together a proposed order along the lines that we have discussed here breaking down the costs." (Transcript at page 66.)

[Further discussion concerning the project.]

"We are going to get a proposed order. It will come out shortly. We will try to get it to you as soon as possible. What that means is it means this is what we are suggesting. If you have, and you will have in that notice, it will give you some time to file some exceptions and/or what we call replies. It will give you an

opportunity, **as well as the railroad** or any of the other parties involved in this, **to file any comments, including Staff, saying we can't afford it, whatever you want to send in,** and I will take those under consideration. But you will get an opportunity to review it before an actual order is sent to the Commission.  
... So we will get your proposed order. It may or may not affect you as adversely as you think it is going to. But if it does, then you can send in your replies... .”  
(Transcript at pages 70-71.)

As is obvious, those present at the Hearing clearly viewed this case as being a contested case requiring that a Proposed Order be prepared and issued and that all parties be granted the opportunity to file Briefs on Exceptions to the Proposed Order. The fact that this Honorable Commission by-passed Section 200.820 of the Illinois Administrative Code and issued a Final Order was error. For this reason alone Respondent submits that its Application for Rehearing should be granted and the matter reopened for further proceedings consistent with fairness and due process.

**ISSUE No. 2: The Final Order, as issued, fails to discuss, analyze or take into consideration the relative benefits to the parties of the project as is required under the Illinois Commercial Transportation Law (625 ILCS 5/18c-7302). In fact, the apportionment of costs as set forth in the order is clearly against the preponderance of the evidence submitted at the July 17, 2003 Hearing.**

6. The Illinois Commercial Transportation Law provides, in relevant part, as follows:

The Commission shall also have the power, after a hearing, to require major alteration of or to abolish any crossing...when in its opinion, the public safety requires such alteration or abolition...and to prescribe, after a hearing of the parties,...the proportion in which the expense of the alteration or abolition of such crossings..., **having regard to the benefits, if any, accruing to the rail carrier or any party in interest, shall be divided between the rail carrier or carriers affected, or between such carrier or carriers and the State, county, municipality or other public authority in interest.**

...

The Commission shall also have power by its order to require the reconstruction, minor alteration, minor relocation or improvement of any crossing (including the necessary highway approaches thereto) of any railroad across any highway or public road... whenever the Commission finds after a hearing... that such reconstruction, alteration, relocation or improvement is necessary to preserve or promote the safety or convenience of the public, or of the employees or passengers of such rail carrier or carriers. By its original order..., the Commission may direct such reconstruction, alteration, relocation, or improvement to be made in such manner and upon such terms and conditions which may be reasonable and necessary and may apportion the cost of such reconstruction, alteration, relocation or improvement and the subsequent maintenance thereof, **having regard to the benefits, if any, accruing to the railroad or any party in interest, between the rail carrier or carriers and public utilities affected, or between such carrier or carriers and public utilities and the State, county, municipality or other public authority in interest.** (625 ILCS 5/18c-7401.) (Emphasis added.)

7. The project envisioned in the instant case, the signalization and improvement of *one crossing, the abolition of another, and the construction of a connecting road for the traveling public*, is clearly a major alteration under the Illinois Commercial Transportation Law cited above. Regardless whether one considers this project a “major” or “minor” alteration, however, this Honorable Commission must undertake a relative benefits to the parties and all others “in interest” analysis prior to coming to a decision apportioning costs of the project to the parties. The Final Order entered in this case fails to reasonably apportion costs to the parties in interest based upon benefits to the parties. The apportionment of only \$13,482 cost to Sullivan Township, Moultrie County, the main beneficiary of this project, (a mere 1.9 % of the project cost as a whole) is against the preponderance of the evidence. The apportionment of \$275,325, or 38% of the project cost, to this Railroad is not supported by the evidence. In short, the apportionment set forth in the Order here is unsupported by the evidence, and is arbitrary and capricious.

8. The record in the instant case is rife with evidence of benefits to the Sullivan Township, Moultrie County, the Illinois Department of Transportation, the State of

Illinois, and the general public traveling the highways and roadways of the State of Illinois. The record is virtually silent on the issue of evidence of benefits of the project to this Respondent Railroad.

9. The evidence adduced at Hearing herein of benefits to the Township, County, State and highway traveling public includes, at a minimum, the following:

- a. The project will benefit all of the agricultural traffic, the AgriFab business nearby, school buses and residents of a large subdivision in the area. (Witness Elmo Weaver, Sullivan Township Road District Highway Commissioner; Tr. p. 9.)
- b. The project will benefit residents of a new subdivision being built nearby, the public traveling to Lake Shelbyville from the City of Sullivan, Illinois, and emergency vehicles. (Tr. p. 10.)
- c. Moultrie County, obviously receiving benefit from the new roadway configuration, intends to construct the new connecting road between Township Road 117A and Township Road 104. (Tr. pp. 13, 15.)
- d. Average daily traffic (ADT) on Township Road 104 (proposed to be closed) is only 175 per day, while ADT at TR 114A is 750. Closing TR 104 and building the connecting road will obviate the need for vehicles of any kind heading south out of Sullivan, Illinois from having to cross the railroad tracks at all, resulting in a benefit to the County for school bus and emergency vehicle traffic. (Witness Douglas Delong, Moultrie County Highway Engineer; Tr. pp. 21, 22.) This includes a Lake Rescue Dive Team, police and fire department service. (Tr. p. 22.)
- e. The project will benefit farm trucks using the roads. (Tr. p. 23.)
- f. Four to eight school buses using the crossing each day will no longer have to do so. (Tr. p. 25.)
- g. Boater traffic heading to two lake access ramps will benefit, as will a Hotel and a Bed and Breakfast in Sullivan, Illinois. (Tr. p. 26.)
- h. A nearby campground and a golf course will benefit from the project, as will grain traffic, anhydrous ammonia transport traffic, propane trucks and the Van Horn business. (Tr. p. 27.)
- i. Nearby England's Gasoline and Oil business, and the farmers they service, will benefit from the project.
- j. Completion of the project will allow the public and emergency services to travel anywhere south or west of Sullivan, Moultrie County, Illinois without having to use the crossings.
- k. The cost of the connecting road, only one-eighth of a mile long and designed as aggregate base with bituminous surface (not asphalt) for only an ADT of 350, with highway approaches, is \$424,620. (Order, p. 4; Witness Michael Cummins, Cummins Engineering, Tr. pp. 38-39, 43.) The connecting road will not even cross any of the tracks of Respondent Railroad. (Tr. pp. 38-39, 43, 46, 52-54, 58.)

10. The evidence in the record of benefits to the Respondent Railroad in authorizing and completing this project is minimal, at best. While there is evidence that there have been accidents with fatalities at road crossings of the 33 degree skewed type in the County (Witness Weaver, Tr. p.12; Witness Delong, Tr. p. 19.) Neither witness Weaver nor witness Delong testified that the fatal accidents occurred on either of the two crossing at issue here. **In fact, not one of the fatal accidents identified by the witnesses occurred at either Township Road 104 or Township Road 114A.**

11. Attached hereto as Respondent's Exhibit A is the verified Affidavit of David W. McKernan, Respondent's Regional Manager Industry and Public Projects, with Department of Transportation, Federal Railroad Administration accident history records. This evidence shows that there have been no accidents of any kind during the past 20 years at either of the crossings at issue here, and that the only two accidents occurring at these crossings were non-fatal accidents in 1979 and 1981. This evidence was not previously adduced as: (1) Respondent had no objections to the Petitioner's request that the Respondent be apportioned 5% of the new signalization costs, the cost for replacement of new timber crossing ties, and the crossing closure cost, with the remainder of the project costs to be apportioned to the Grade Crossing Protection Fund and other parties in interest; (2) Respondent did not know that accident history was an issue in the case; (3) Respondent had expected a Proposed Order from the Administrative Law Judge prior to issuance of a Final Order by the Commission (see Issue No. 1 above); (4) Respondent expected that this honorable Commission would perform the benefits analysis required by Illinois Law and apportion it 5% of the appropriate project costs in the Proposed Order as has occurred in all such cases in the past (see Issue No. 2);

(5) Respondent did not know that the Grade Crossing Protection Fund was unavailable for use on the majority of this project as it had been for all other similar projects in the past or that a new “rule” was in effect in connecting road cases (see Issue No. 3 below); and (6) Respondent did not know that it would be apportioned project costs beyond that requested in the Petition, namely for 38% of the project costs as a whole including the costs of the connecting road.

12. The only other “benefits” in the record to the Respondent is vague testimony that occasionally trains blocked one or the other of the two crossings involved here, and that closure of one crossing would be beneficial to Respondent. However, there was no testimony as to which crossing was blocked, how often or for how long. (Tr. pp. 11, 30.) The testimony of blocking crossings is so vague and lacking as credible evidence as to be of no use in any benefit analysis. Furthermore, there is no evidence as to benefit to Respondent from closure of a crossing with an ADT of only 175, such as savings in liability insurance or exposure, maintenance, upkeep, etc. As previously noted, there have been no accidents at either of these crossings in over 20 years, and any testimony as to accidents at other “similar” crossings is irrelevant, even absent consideration of Exhibit A.

13. Simply put, there has been no meaningful consideration of benefits analysis or apportionment of costs pursuant to the benefits, if any, accruing to the parties in interest in this case.

14. Furthermore, the apportionment of costs set forth in this Honorable Commission’s Order is against the preponderance of the evidence, and is arbitrary and capricious. Clearly, this project greatly benefits Sullivan Township, Moultrie County,



State of Illinois residents in and around Sullivan and Lake Shelbyville in the state of Illinois, and the motoring public in general. The benefits to the Railroad adduced in evidence at hearing are vastly outweighed by the benefits to others in interest in this case. Interestingly enough, while the Illinois Department of Transportation (hereinafter "IDOT") is a named Respondent herein, IDOT is not participating in the project on a financial basis and nobody knows why this is so. (Tr. p. 60.) Nor was IDOT apportioned any percentage of costs of the project in this Commission's Final Order. Respondent respectfully suggests that this further supports Respondent's argument that the apportionment is flawed on a benefits analysis basis, as well as contrary to the preponderance of the evidence.

**Issue No. 3. The Commissions "new" policy or procedure in apportioning a high percentage of project costs for construction of connecting highways/roadways to rail carriers is invalid.**

In this case, the Commission appears to have created and invoked a new policy of assessing rail carriers with a high percentage of construction costs associated with construction of connecting roads where a rail crossing closure is contained in the Order. Here the Order apportions to Respondent 50% (fifty percent) of the cost of constructing the 1/8<sup>th</sup> mile aggregate road between TR 114A and TR 104, some distance removed from Respondent's tracks, in the amount of \$213,120, **in addition to** 10% (ten percent) of the cost of installation of AFLS and gates, **in addition to** costs of installation of crossing surface, and **in addition to** 100% (one hundred percent) of the costs of closure of TR 104. A similar policy has been proposed and used in other such cases as this. This action by the Commission is invalid.

16. The Illinois Administrative Procedure Act defines a “rule” as follows:

“Rule” means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, (ii) informal advisory rulings issued under section 5-150, (iii) intra-agency memoranda, (iv) the prescription of standardized forms, or (v) documents prepared or filed or actions taken by the Legislative Reference Bureau under Section 5.04 of the Legislative Reference Bureau Act. (5 ILCS 100/1-70.)

17. The Commission’s new policy of apportioning rail carriers a certain percentage of the costs of construction of a connecting road away from a carrier’s rail where another crossing, albeit one with low ADT, is closed, is a “rule” within the meaning of the Illinois Administrative Procedure Act.

18. The Illinois Administrative Procedure Act further provides:

(c) No agency rule is valid or effective against any person or party, nor may it be invoked by the agency for any purpose, until it has been made available for public inspection and filed with the Secretary of State as required by this Act. (5 ILCS 100/5-10(c).)

19. The Commission’s policy has not been formally proposed, published, adopted and filed with the Office of the Secretary of State pursuant to the Illinois Administrative Procedure Act.

20. Accordingly, the Commission’s policy may not be lawfully invoked in this case against this Respondent, and its Order apportioning Respondent 50% of the costs of construction of the connecting road under the circumstances is invalid. *Senn Park Nursing Center v. Miller*, 104 Ill 2d 169, 470 N.E.2d 1029, 83 Ill. Dec. 609 (1984).


21. Where rules, policies or procedures are not adopted consistently with statutory procedures, they are not valid. (*Sleeth v. Illinois Department of Public Aid*, 125 Ill.App.3d 847, 466 N.E.2d 703, 81 Ill.Dec. 117 (3<sup>rd</sup> Dist 1984).) Moreover, where a party obtains invalidation of an administrative rule, that party is then entitled to petition for reimbursement of litigation expenses and legal fees. Illinois Administrative Procedure Act, 5 ILCS 100/10-55(c); *Citizens Organizing Project v. Department of Natural Resources*, 189 Ill.2d 593, 727 N.E.2d 195, 244 Ill.Dec. 896.

22. Respondent respectfully submits that Rehearing should be granted for reason that the Commission's Order implementing this new policy on cost apportionment be granted.

WHEREFORE, for all of the foregoing reasons, Respondent, Union Pacific Railroad Company, respectfully requests that its Application for Rehearing be granted.

**PURSUANT TO 83 Ill. Admin Code Section 200.850, REPONDENT  
RESPECTFULLY REQUESTS THAT ORAL ARGUMENT BE GRANTED FOR  
REASON THAT THE INSTANT CASE INVOLVES NOVEL AND UNIQUE  
ISSUES OF FACT AND LAW.**

Respectfully submitted,  
Union Pacific Railroad Company,  
By Dean W. Jackson, its' attorney.

By: 

Dean W. Jackson, Esq.  
938 South Fourth Street  
Springfield, Illinois 62703  
(217) 523-4823  
(217) 523-4834 (Fax)

**PROOF OF SERVICE**

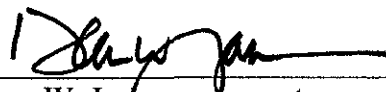
The undersigned hereby certifies that he caused a copy of the foregoing Application for Rehearing to be served on the following, by placing same in a preaddressed postage prepaid envelope and depositing same in the US Mail in Springfield, Illinois, this 9th day of October, 2003:

Honorable Rick Korte  
Chief Administrative Law Judge  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, Illinois 62701

Mr. Robert S. Berry  
Illinois Commerce Commission Staff  
527 East Capitol Avenue  
Springfield, Illinois 62701

Ms. Stacey C. Hollo  
Legal Counsel  
Illinois Department of Transportation  
2300 S. Dirksen Parkway  
Springfield, Illinois 62764

Mr. Steven K. Wood, Esq.  
Attorney at Law  
200 West Harrison Street  
Sullivan, Illinois 61951

  
\_\_\_\_\_  
Dean W. Jackson

STATE OF MISSOURI       )  
                                      ) SS  
CITY OF ST. LOUIS       )

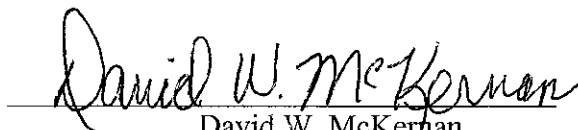
**AFFIDAVIT OF DAVID W. MCKERNAN**

COMES NOW David W. McKernan, and being duly sworn, upon his oath, states:

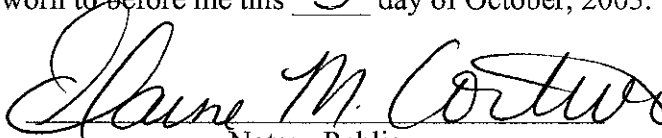
1. I am employed by Union Pacific Railroad Company as Regional Manager Industry and Public Projects which includes responsibility for coordinating projects between the Railroad and public bodies with respect to highway-railroad grade crossings for Union Pacific Railroad Company in the State of Illinois.

2. I am familiar with the Commission's proceeding in Case Number T03-0048 concerning grade crossings at or near Sullivan Township, Moultrie County, Illinois, DOT #167270M and #167269T, which crossings are within my responsibility.

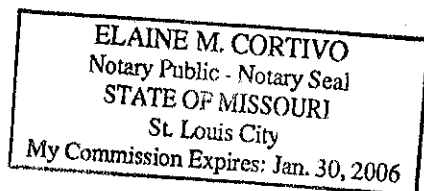
3. I have researched the accident history of both of the above crossings both from Union Pacific Railroad Company's internal records and FRA public records. I have determined that neither crossing has had any accidents within the past 20 years. The only recorded accidents are one injury accident at each crossing over 20 years ago as evidenced by the attached FRA accident reports-- one non-fatal accident at DOT #167270M on May 31, 1981 and one non-fatal accident at DOT #167269T on July 2, 1979.

  
David W. McKernan

Subscribed and sworn to before me this 3<sup>RD</sup> day of October, 2003.

  
Notary Public

My Commission Expires:



**DEPARTMENT OF TRANSPORTATION**  
**FEDERAL RAILROAD ADMINISTRATION (FRA)**

Name Of		Alphabetic Code		RR Accident/Incident No.	
1. Reporting Railroad		1a. <b>MP</b>		1b. <b>C1182</b>	
2. Other Railroad Involved in Train Accident/Incident		2a.		2b.	
3. Railroad Responsible for Track Maintenance		3a. <b>MP</b>		3b. <b>C1182</b>	
4. U.S. DOT-AAR Grade Crossing ID No. <b>167269T</b>		5. Date of Accident/Incident <b>07/02/79</b>		6. Time of Accident/Incident <b>2:40 PM</b>	
7. Nearest Railroad Station <b>SULLIVAN</b>		8. Division		9. County <b>MOULTRIE</b>	
11. City (if in a city) <b>SULLIVAN</b>		12. Highway Name or No. <b>EDEN ST</b>		<input checked="" type="checkbox"/> Public <input type="checkbox"/> Private	
Highway User Involved		Rail Equipment Involved			
13. Type C. Truck-trailer A. Auto B. Truck F. Bus D. Pick-up truck E. Van G. School Bus H. Motorcycle J. Other Motor Vehicle K. Pedestrian M. Other (specify) <b>M</b>		17. Equipment 3. Train (standing) 1. Train (units pulling) 2. Train (units pushing) 6. Light loco(s) (moving) 4. Car(s) (moving) 5. Car(s) (standing) 7. Light loco(s) (standing) 8. Other (specify) <b>1</b>			
14. Vehicle Speed (est. mph at impact) <b>4</b>		18. Position of Car Unit in Train <b>1</b>			
15. Direction (geographical) 1. North 2. South 3. East 4. West <b>4</b>		19. Circumstance 1. Rail equipment struck highway user 2. Rail equipment struck by highway user <b>1</b>			
16. Position 1. Stalled on crossing 2. Stopped on Crossing 3. Moving over crossing 4. Trapped <b>3</b>		20b. Was there a hazardous materials release by 1. Highway User 2. Rail Equipment 3. Both 4. Neither <b>4</b>			
20a. Was the highway user and/or rail equipment involved in the impact transporting hazardous materials? 1. Highway User 2. Rail Equipment 3. Both 4. Neither <b>4</b>		20c. State the name and quantity of the hazardous materials released, if any			
21. Temperature (specify if minus) <b>93 °F</b>		22. Visibility (single entry) 1. Dawn 2. Day 3. Dusk 4. Dark <b>2</b>			
23. Weather (single entry) 1. Clear 2. Cloudy 3. Rain 4. Fog 5. Sleet 6. Snow <b>1</b>		24. Type of Equipment Consist (single entry) 1. Freight train 2. Passenger train 3. Commuter train 4. Work train 5. Single car 6. Cut of cars 7. Yard/Switching 8. Light loco(s) 9. Other (specify) <b>1</b>			
25. Track Type Used by Rail Equipment Involved 1. Main 2. Yard 3. Siding 4. Industry <b>1</b>		26. Track Number or Name <b>SINGLE MAIN</b>			
27. FRA Track Class (1-6,X) <b>4</b>		28. Number of Locomotive Units <b>1</b>		29. Number of Cars <b>1</b>	
30. Consist Speed (Recorded if available) R. Recorded E. Estimated <b>35 mph E</b>		31. Time Table Direction 1. North 2. South 3. East 4. West <b>1</b>			
32. Type of Crossing 1. Gates 2. Cantilever FLS 3. Standard FLS 4. Wig wags 5. Hwy. traffic signals 6. Audible 7. Crossbucks 8. Stop signs 9. Watchman 10. Flagged by crew 11. Other (specify) 12. None <b>07</b>		33. Signaled Crossing Warning <b>20 sec warn min</b>		34. Whistle Ban 1. Yes 2. No 3. Unknown <b>2</b>	
35. Location of Warning 1. Both Sides 2. Side of Vehicle Approach 3. Opposite Side of Vehicle Approach <b>2</b>		36. Crossing Warning Interconnected with Highway Signals 1. Yes 2. No 3. Unknown <b>2</b>		37. Crossing Illuminated by Street Lights or Special Lights 1. Yes 2. No 3. Unknown <b>2</b>	
38. Driver's Age <b>39</b>		39. Driver's Gender 1. Male 2. Female <b>1</b>		40. Driver Drove Behind or in Front of Train and Struck or was Struck by Second Train 1. Yes 2. No 3. Unknown <b>2</b>	
41. Driver 1. Drove around or thru the gate 2. Stopped and then proceeded 3. Did not stop <b>3</b>		42. Driver Passed Standing Highway Vehicle 1. Yes 2. No 3. Unknown <b>2</b>			
43. View of Track Obscured by 1. Permanent Structure 2. Standing railroad equipment 3. Passing Train 4. Topography 5. Vegetation 6. Highway Vehicles 7. Other (specify) 8. Not Obstructed <b>8</b>		44. Driver was 1. Killed 2. Injured 3. Uninjured <b>2</b>			
45. Was Driver in the Vehicle? 1. Yes 2. No <b>1</b>		46. Highway-Rail Crossing Users <b>0</b>			
47. Highway Vehicle Property Damage (est. dollar damage) <b>\$1,500</b>		48. Total Number of Highway-Rail Crossing Users (include driver) <b>1</b>			
49. Railroad Employees <b>0</b>		50. Total Number of People on Train (include passengers and crew) <b>0</b>			
51. Is a Rail Equipment Accident / Incident Report Being Filed 1. Yes 2. No <b>2</b>		52. Passengers on Train <b>0</b>			
53a. Special Study Block		53b. Special Study Block			
54. Narrative Description					
55. Typed Name and Title		56. Signature		57. Date	

# HIGHWAY-RAIL GRADE CROSSING ACCIDENT/INCIDENT REPORT

DEPARTMENT OF TRANSPORTATION  
FEDERAL RAILROAD ADMINISTRATION (FRA)

OMB Approval No. 2130-0500

Name Of				Alphabetic Code	RR Accident/Incident No.
1. Reporting Railroad				1a. <b>MP</b>	1b. <b>C811092</b>
2. Other Railroad Involved in Train Accident/Incident				2a.	2b.
3. Railroad Responsible for Track Maintenance				3a. <b>MP</b>	3b. <b>C811092</b>
4. U.S. DOT-AAR Grade Crossing ID No. <b>167270M</b>		5. Date of Accident/Incident <b>05/31/81</b>		6. Time of Accident/Incident <b>5:40 PM</b>	
7. Nearest Railroad Station <b>SULLIVAN</b>		8. Division	9. County <b>MOULTRIE</b>	10. State Abbr. <b>IL</b>	Code <b>17</b>
11. City (if in a city)		12. Highway Name or No.		<input checked="" type="checkbox"/> Public <input type="checkbox"/> Private	
Highway User Involved			Rail Equipment Involved		
13. Type C. Truck-trailer F. Bus J. Other Motor Vehicle A. Auto D. Pick-up truck G. School Bus K. Pedestrian B. Truck E. Van H. Motorcycle M. Other (specify) Code <b>B</b>			17. Equipment 1. Train (units pulling) 4. Car(s) (moving) 7. Light loco(s) (standing) 2. Train (units pushing) 5. Car(s) (standing) 8. Other (specify) Code <b>1</b>		
14. Vehicle Speed (est. mph at impact) <b>2</b>		15. Direction (geographical) 1. North 2. South 3. East 4. West Code <b>3</b>		18. Position of Car Unit in Train <b>135</b>	
16. Position 1. Stalled on crossing 3. Moving over crossing 2. Stopped on Crossing 4. Trapped Code <b>3</b>		19. Circumstance 1. Rail equipment struck highway user 2. Rail equipment struck by highway user Code <b>2</b>			
20a. Was the highway user and/or rail equipment involved in the impact transporting hazardous materials? 1. Highway User 2. Rail Equipment 3. Both 4. Neither Code <b>4</b>		20b. Was there a hazardous materials release by 1. Highway User 2. Rail Equipment 3. Both 4. Neither Code			
20c. State the name and quantity of the hazardous materials released, if any					
21. Temperature (specify if minus) <b>68 °F</b>		22. Visibility (single entry) 1. Dawn 2. Day 3. Dusk 4. Dark Code <b>2</b>		23. Weather (single entry) 1. Clear 2. Cloudy 3. Rain 4. Fog 5. Sleet 6. Snow Code <b>1</b>	
24. Type of Equipment Consist (single entry) 1. Freight train 4. Work train 7. Yard/Switching 2. Passenger train 5. Single car 8. Light loco(s) 3. Commuter train 6. Cut of cars 9. Other (specify) Code <b>1</b>		25. Track Type Used by Rail Equipment Involved 1. Main 2. Yard 3. Siding 4. Industry Code <b>1</b>		26. Track Number or Name <b>SINGLE MAIN</b>	
27. FRA Track Class (1-6,X) <b>3</b>	28. Number of Locomotive Units <b>3</b>	29. Number of Cars <b>135</b>	30. Consist Speed (Recorded if available) R. Recorded E. Estimated <b>20</b> mph Code <b>E</b>	31. Time Table Direction 1. North 2. South 3. East 4. West Code <b>1</b>	
32. Type of Crossing 1. Gates 4. Wig wags 7. Crossbucks 10. Flagged by crew 2. Cantilever FLS 5. Hwy. traffic signals 8. Stop signs 11. Other (specify) 3. Standard FLS 6. Audible 9. Watchman 12. None Code(s) <b>07</b>			33. Signaled Crossing Warning		34. Whistle Ban 1. Yes 2. No 3. Unknown Code
35. Location of Warning 1. Both Sides 2. Side of Vehicle Approach 3. Opposite Side of Vehicle Approach Code <b>1</b>		36. Crossing Warning Interconnected with Highway Signals 1. Yes 2. No 3. Unknown Code <b>3</b>		37. Crossing Illuminated by Street Lights or Special Lights 1. Yes 2. No 3. Unknown Code <b>3</b>	
38. Driver's Age	39. Driver's Gender 1. Male 2. Female Code	40. Driver Drove Behind or in Front of Train and Struck or was Struck by Second Train 1. Yes 2. No 3. Unknown Code <b>2</b>		41. Driver 1. Drove around or thru the gate 2. Stopped and then proceeded 3. Did not stop 4. Stopped on crossing 5. Other (specify) Code <b>2</b>	
42. Driver Passed Standing Highway Vehicle 1. Yes 2. No 3. Unknown Code <b>1</b>		43. View of Track Obscured by (primary obstruction) 1. Permanent Structure 3. Passing Train 5. Vegetation 7. Other (specify) 2. Standing railroad equipment 4. Topography 6. Highway Vehicles 8. Not Obstructed Code <b>8</b>			
Casualties to:		Killed	Injured	44. Driver was 1. Killed 2. Injured 3. Uninjured Code <b>2</b>	45. Was Driver in the Vehicle? 1. Yes 2. No Code <b>1</b>
46. Highway-Rail Crossing Users <b>0</b>		<b>1</b>	47. Highway Vehicle Property Damage (est. dollar damage) <b>\$500</b>		48. Total Number of Highway-Rail Crossing Users (include driver) <b>1</b>
49. Railroad Employees <b>0</b>		<b>0</b>	50. Total Number of People on Train (include passengers and crew)		51. Is a Rail Equipment Accident / Incident Report Being Filed 1. Yes 2. No Code <b>2</b>
52. Passengers on Train <b>0</b>		<b>0</b>			
53a. Special Study Block			53b. Special Study Block		
54. Narrative Description					
55. Typed Name and Title		56. Signature			57. Date